

Appl. No. 09/774,558
Atty. Docket No. 7997
Amdt. dated 10/15/2003
Reply to Office Action of 04/15/2003
Customer No. 27752

REMARKS

The Applicants respectfully request entry of the Request for Continued Examination submitted herewith. Claims 1 to 30 are pending in the case. Claims 1, 19 to 28 and 30 are withdrawn from consideration following the dispatch of a Restriction Requirement dated 12 February 2002. The Applicants have amended claims 2, 4 to 14 and 29 to particularly point out and distinctly claim the subject matter that the Applicants regard as their invention. The Applicants have cancelled claim 3, without prejudice, in favor of incorporation of the subject matter included therein into amended claim 2. Indeed, the Applicants reserve the right to reinstate the subject matter of cancelled claim 3 during the pendency of the present application. Support for the present amendments is found throughout the specification and claims, as originally filed. No new matter has been added and no additional claims fees are believed to be due. The Applicants believe that the present amendments have placed the application in condition for allowance. Accordingly, favorable and timely action is respectfully requested.

Rejection under 35 USC § 102(b) over Biddlecom

The Examiner has rejected Claims 2-10, 12, 14 and 15 under 35 USC § 102(b) as allegedly being anticipated by US Patent Number 4,171, 331 to Biddlecom et al (hereinafter "Biddlecom"). Specifically, the Examiner asserts that Biddlecom discloses 1 and 2-substituted analogues of E, A, and F prostaglandins, which purportedly includes the present phosphonic derivatives of Formula III.

The Applicants respectfully direct the "Amendments" section of the instant paper, in which the Applicants have amended claims 2, 4 to 14 and 29, to particularly point out and distinctly claim the subject matter that Applicants regard as their invention. Moreover, the Applicants have cancelled claim 3, without prejudice, in favor of incorporation of the subject matter included therein into amended claim 2. Support for the present amendments is found throughout the specification and claims, as originally filed. No new matter has been added and no additional claims fees are believed to be due. Specifically, the Applicants have amended claim 2 to include the general compound structures from which the 2-decarboxy-2-phosphinico derivative is selected. Moreover, the Applicants have amended the definition of the various R group substituents to recite that R¹ and R³ cannot both be oxygen-containing moieties. In light of the present amendments, the Applicants urge that the amended definitions of the various R group substituents of the compounds claimed herein would prevent any of the present compounds from taking the form of a phosphonic acid, and thus, being anticipated by Biddlecom's disclosure of a phosphonic derivative. Accordingly, reconsideration and withdrawal of the rejection to Claims 2-10, 12, 14 and 15 under 35 USC § 102(b) are respectfully requested.

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Rejection under 35 USC § 103(a) over Kende in view of Johnstone

The Examiner has rejected Claims 2-10, 12, 14-18 and 29 under 35 USC § 103(a) as allegedly obvious over Tetrahedron Letters by Kende et al (hereinafter "Kende") in view of US Patent Number 6,262,105 to Johnstone (hereinafter "Johnstone"). Specifically, the Examiner asserts that it would have been obvious for one of ordinary skill in the art to incorporate the required carriers and other dermatologically acceptable components of Johnstone into the phophonic derivative prostaglandin-containing hair stimulating compositions of Kende.

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The Applicants again wish to direct the distinguished Examiner's attention to the "Amendments" section of the instant paper, in which the Applicants have amended claims 2, 4 to 14 and 29 only to particularly point out and distinctly claim the subject matter that the Applicants regard as their invention. The Applicants have further cancelled claim 3, without prejudice, in favor of incorporation of the subject matter included therein into amended claim 2. Support for the present amendments is found throughout the specification and claims as originally filed. No new matter has been added and no additional claims fees are believed to be due. Specifically, the Applicants have amended claim 2 by including the group of general structures of prostaglandin compounds from which the recited 2-decarboxy-2-phosphinico prostaglandin compound is selected. Moreover, the Applicants have amended the definitions of the various R group substituents of the general structures to recite that R¹ and R³ cannot both be oxygen-containing moieties. In light of the present amendments, the Applicants urge that the present claims are directed entirely to phosphinic derivatives, and thus, cannot be rendered obvious by the cited references' disclosure of phosphonic derivatives. Reconsideration and withdrawal of the rejection to Claims 2-10, 12, 14-18 and 29 under 35 USC § 103(a) are therefore respectfully requested.

Rejection under 35 USC § 103(a) over Biddlecom

The Examiner has rejected Claim 11 under 35 USC § 103(a) as allegedly obvious over Biddlecom. Specifically, the Examiner asserts that Biddlecom teaches prostaglandin analogues, which purportedly include the claimed phophonic derivatives of Formula III for their vasodilator, antihypertensive or antithrombotic activities.

The Applicants again wish to direct the Examiner's attention to the "Amendments" section of the instant paper, in which the Applicants have amended claims 2, 4 to 14 and 29 to particularly point out and distinctly claim the subject matter that Applicants regard as their invention. The Applicants have cancelled claim 3, without prejudice, in favor of incorporation of the subject matter recited therein into amended claim 2. Support for the present amendments is found throughout the specification and claims as originally filed. No new matter has been added and no additional claims fees are believed to be due. Specifically, the Applicants have amended

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claim 2 to include the general structures from which the 2-decarboxy-2-phosphinico prostaglandin derivatives recited therein are selected. Moreover, the Applicants have amended the various definitions of the R group substituents to recite that R¹ and R³ cannot both be oxygen-containing moieties. In light of the present amendments, the Applicants submit that the phosphinic acid prostaglandin derivatives of the present claims are neither taught nor suggested by Biddlecom's disclosure of a phosphonic acid compound. Reconsideration and withdrawal of the rejection to Claim 11 under 35 USC § 103(a) are therefore respectfully requested.

CONCLUSION

Applicants have made an earnest effort to place the present claims in condition for allowance. WHEREFORE, entry of the amendments provided herewith, reconsideration of the claims as amended in light of the Remarks provided, withdrawal of the claims rejections, and allowance of Claims 1, 2-12, 14-18 and 29-30, as amended, are respectfully requested. In the event that issues remain prior to allowance of the noted claims, then the Examiner is invited to call Applicants' undersigned attorney to discuss any remaining issues.

Respectfully submitted,

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